IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 822 OF 2006
IN
NOTICE OF MOTION NO. 3219 OF 2006
IN
SUIT NO. 2703 OF 2006

1. Veena Sikand & Anr.] .. Appellants (Ori.Defts.1 & 2)

Versus

1. Rukmani Bherumal Wadhwani & Anr.] .. Respondents (Ori.Pltff.& Def No.3)

Mr. R.Z. Moray with Mr. K.T. Kukreja i/b M/s. Kukreja & Co. for the appellants.

Mr. J.P. Sen i/b Mr. Ashok Purohit for the respondent No.1.

CORAM: R.M. LODHA, &
S.A. BOBDE, JJ.

DATED: 23RD NOVEMBER, 2006

P.C. :

. We heard Mr. R.Z. Moray, the counsel for the appellant and Mr. J.P. Sen, the counsel for the respondent No.1.

2. Yesterday, when the matter came up before us, we suggested to the counsel for the parties to explore the possibility of amicable solution. We suggested so looking to the relationship of the parties. The appellants are daughter and grand son of the respondent

No.1. The respondent No.1 is said to be about 83 years old lady. The daughter-appellant No.1 is about 60 years old. Alternatively, we also suggested that the appellant No.2 who is the grand son and said to be highly placed and well off must voluntarily remove himself from the flat to enable the mother and daughter to find some amicable solution. We, accordingly, kept the matter for today.

3. Though the counsel for the respondent No.1 submitted that if appellant No.2 removes himself from the flat in question, the appellant No.1 may continue in the flat for some time to explore the amicable solution, but the counsel for the appellants submitted that the appellants are not agreeable to this suggestion.

4. It is not in dispute and rather it is an admitted position that the subject flat belongs to the respondent No.1. The appellants, who are the daughter and grand son of the respondent No.1, respectively, have no right, title or interest in the said flat. They even do not claim it. Though the appellant No.1 has been living in the flat for about last 27 years, obviously she has been living in the flat as the daughter of the respondent No.1. Her status in the flat in question is not more than that of gratuitous licencee.

5. In this backdrop and looking to the peculiar facts and circumstances of the case, the ad-interim order passed by the learned Motion Judge does not call for any interference in Appeal. In our view, the learned Motion Judge had been quite sympathetic and considerate in giving the appellants time upto 31st March, 2007 in removing themselves from the subject flat.

6. Appeal does not deserve to be admitted. It is dismissed in limine.

7. It is always open to the appellants to apply to the learned Motion Judge for expeditious hearing of the Motion.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]